THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.12414 of 2007

Date 15-6-2007

Between:
M.A. Saleem

……PETITIONER

AND

The Government of Andhra Pradesh
Rep. by its Principal Secretary, Agriculture and
Cooperation (Horticulture) Department & Agriculture
Production Commissioner,
Secretariat, Hyderabad and others.

……..RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.12414 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

In this writ petition, the petitioner seeks a Writ of Certiorari to call for the records relating to the judgment in O.A. No.1564 of 2006, dated 4.6.2007 on the file of the A.P. Administrative Tribunal, Hyderabad and to quash the same.

Petitioner joined in service as Agricultural Officer in Agricultural Department. The applicant opted to serve in Horticulture Department. While so, the petitioner was issued a charge memo on 7.11.1992. Petitioner submitted his explanation to the said to the charge memo. Basing on the explanation submitted by the petitioner, the enquiry officer submitted his report. The Government passed final orders on 17.3.1999 removing the petitioner from service. Assailing the same, the petitioner filed O.A.No. 1564 of 20066 before the Tribunal.

Petitioner contended before the Tribunal stating that as per Section 4 of the Tribunal for Disciplinary Proceedings Act, the Tribunal for Disciplinary Proceedings alone is competent to initiate enquiry and the Department cannot hold departmental enquiry against him. Through order, dated 7.4.1999, the Tribunal allowed the said O.A. When the said order passed by the Tribunal was not implemented by the Government, the applicant filed writ Petition No. 10778 of 1999 and the said writ petition was allowed and the Government was directed to implement the said order. Thereafter, the Government issued G.O.

Ms. No.326, dated 18.11.1999 reinstating the applicant into service, pending finalisation of disciplinary case against him. Thereafter, charge sheet was issued to the petitioner. Assailing the same, petitioner filed the present O.A. No. 1564 of 2006.

The respondents filed counter affidavit before the Tribunal contending that the case has been referred to the Tribunal for disciplinary Proceedings vide Government letter dated 30.11.1999 before retirement of the applicant, that the proceedings initiated against the petitioner can be continued even after retirement. In view of the fact that charges 1 to 10 relate to the disciplinary case dealt against the applicant, disciplinary proceedings were initiated against him and assailing the same when O.A. No. 1643 of 1999 was preferred, the Tribunal gave liberty to the respondents to refer the matter to the Tribunal for Disciplinary Proceedings since misconduct said to have been committed prior to A.P. Act 6/1993. Further, Writ Petition No. 460 of 2005 is filed against the orders of the Tribunal in O.A. No. 6250 of 2000 seeking payment of pensionary benefits to the applicant and the same is still pending. The respondents further contended that as per Rule 52 of A.P. Revised Pension Rules, in cases where disciplinary cases are pending, only provisional pension can be sanctioned and no gratuity shall be paid to the Government servant, until conclusion of the departmental and judicial proceedings.

The Tribunal through the impugned order declined to interfere with the proceedings initiated in T.E.C. No. 15 of 2005 before the Tribunal for Disciplinary Proceedings and accordingly disposed of the O.A. It, however, reserved liberty to the petitioner to urge the contentions which were raised in the O.A. before the T.D.P. Aggrieved by the same, the petitioner filed the present writ petition.

Admittedly, disciplinary proceedings were initiated against the petitioner while he was in service and after due enquiry the disciplinary authority imposed the punishment of removal from service. Petitioner challenged the said order before the Tribunal by

way of filing O.A. No.1643 of 1999 and the Tribunal through order dated 7.4.1999 gave liberty to the respondents to refer the matter to the Tribunal for Disciplinary proceedings since the misconduct said to have been committed is prior to A.P. Act 6/1993. Petitioner thereafter Writ Petition No. 460 of 2005 before this Court seeking pensionary benefits and the same is said to be pending. In the instant case, since the charge sheet has been issued by the Tribunal for Disciplinary Proceedings even before the retirement of the petitioner and in view of the fact that the proceedings were initiated against the petitioner before the T.D.P. in pursuance of the orders passed by the Tribunal in O.A. No. 1643 of 1999, the respondents can proceed with the departmental enquiry even after the retirement of the petitioner. In view of the fact that the proceedings have been initiated against the petitioner as far back as in the year 1999, while the petitioner was in service, the Tribunal rightly declined to interfere with the same and rightly dismissed the O.A.

In the circumstances, we do not find any irregularity or illegality in the order of the Tribunal warranting interference.

However, we direct the Tribunal for Disciplinary Proceedings to complete the disciplinary proceedings initiated against the petitioner as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

_____

T. Meena Kumari,J

Date: 15.6.2007

_____

G. Chandraiah, J

pnb